

ANNEX BB

STATE OF EMERGENCY PROCLAMATION

A. PURPOSE

A State of Emergency may be proclaimed for all or any part of West Virginia when a natural or man-made disaster of major proportions or a national security threat has occurred or is imminent within the State. This Annex describes the policies, procedures and responsibilities related to a State of Emergency Proclamation.

B. CONCEPT OF OPERATIONS

1. The Governor or the State Legislature, by concurrent resolution, may proclaim that a state of emergency exists in all or any part of West Virginia when a natural or man-made disaster of major proportions or a national security threat is imminent or has actually occurred within the State.
2. A State of Emergency Proclamation is necessary to receive Federal assistance under Public Law 93-288, the Stafford Act, as amended.
3. The existence of a State of Emergency allows the Governor to assume any or all of the following additional emergency powers:
 - a. To enforce all laws, rules and regulations relating to the provision of emergency services and to assume direct operational control of any or all emergency service forces and helpers in the State;
 - b. To sell, lend, lease, give, transfer or deliver materials or perform functions relating to emergency services functions on such terms and conditions as he shall prescribe and without regard to the limitations of any existing law and to account to the State treasurer for any funds received for such property;
 - c. To procure materials and facilities for emergency services by purchase, condemnation under the provisions of Chapter fifty-four of the State Code or seizure pending institution of condemnation proceedings within thirty days from the seizing thereof and to construct, lease, transport, store, maintain, renovate or distribute such materials and facilities. Compensation for property so procured shall be made in the manner provided for in Chapter fifty-four of the State Code.
 - d. To obtain the services of necessary personnel, required during the emergency, and to compensate them for their services from his/her contingent funds or such other funds as may be available to him;

- e. To provide for the evacuation of all or part of the population from any stricken or threatened area within the State and to take such steps as are necessary for the receipt and care of such evacuees;
 - f. To control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;
 - g. To suspend the provisions of any regulatory statute prescribing the procedures for conduct of State business or the orders, rules or regulations of any State agency, if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency;
 - h. To utilize such available resources of the State and of its political subdivisions as are reasonably necessary to cope with the emergency;
 - i. To suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;
 - j. To make provision for the availability and use of temporary and emergency housing;
 - k. To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.
4. A State of Emergency is terminated by a Gubernatorial proclamation or concurrent resolution of the Legislature.
5. There will be times when a transportation or utility (telephone, electric power, etc.) emergency will require the Director, WVOES (as the Governor's designee) to declare a transportation or utility emergency to exempt the hours of service for their truck drivers. This declaration will allow the drivers to exceed the 70 hours in 8 days limitation established by the U.S. Department of Transportation (USDOT). This declaration of a transportation or utility emergency can be satisfied by a Governor's Declaration of a State of Emergency during such periods.

C. REFERENCES AND AUTHORITIES

- 1. West Virginia Code, Chapter 15, Article 5, Section 6, "Emergency Powers of Governor"
- 2. West Virginia Code, Chapter 54, "Eminent Domain"
- 3. Declaration of Transportation or Utility Emergency, US DOT 49 CFR, Part 390.23
- 4. PL 93-288, as amended

APPENDIX 1

SAMPLE PROCLAMATION

SAMPLE FORMAT FOR ORDERING NATIONAL GUARD TO ACTIVE DUTY

STATE OF WEST VIRGINIA

A P R O C L A M A T I O N

By the Governor

Protection of life and property and to alleviate suffering in the counties of (identify the affected counties) by the Governor of the State of West Virginia.

WHEREAS; the Director of the Office of Emergency Services has informed the Governor that conditions exist in the counties of (identify the affected counties) that require the protection of lives and property and the alleviation of suffering due to (identify cause of existing conditions, e.g., severe storms, flash flooding, forest fires); and

WHEREAS; the Director of the Office of Emergency Services has requested the Governor to use the National Guard as may be necessary for the purpose of military support to civil authorities; and

WHEREAS; the protection of lives and property and the alleviation of suffering is paramount in this portion of the State of West Virginia;

Now, THEREFORE, I (Governor's Name) as Governor of the State of West Virginia, by virtue of the authority vested in me by the Constitution and the laws of the State of West Virginia, including Chapter 15, Article 10, Section 1, of the West Virginia Code, 1931, as amended, do hereby order into State active service, the West Virginia National Guard, under command of the Adjutant General with subcommanders as directed by the Adjutant General and at the levels needed to move into the affected area for the specific purposes of protection of property and lives, alleviation of suffering, and to provide other services as deemed appropriate.

SAMPLE FORMAT - GOVERNOR'S STATE OF EMERGENCY PROCLAMATION

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

CHARLESTON

A P R O C L A M A T I O N

By the Governor

WHEREAS, beginning on _____, heavy rains, high winds, flooding and slides caused extensive damage over a wide area in West Virginia, particularly in the Counties of _____;

WHEREAS, the damage caused by the extraordinary natural occurrences include substantial damage to public and private property, including damages to public buildings and installations, highways, bridges, homes and businesses;

WHEREAS, the storms, flooding and their effects, have caused mass evacuation and sheltering of the public and pose a serious and immediate threat to the health, safety, welfare and property of the citizens of these (#) _____ counties and the surrounding areas;

NOW, THEREFORE, I, (Governor's name), Governor of the State of West Virginia, under the authority vested in me by the Constitution and laws of this State and in recognition of the gravity of the situation, do hereby find and declare that the extraordinary natural occurrences described above have created a natural disaster over a wide area in southern West Virginia, particularly in the counties of _____.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

DONE at the Capitol, City of Charleston, State of West Virginia, this the ____ day of _____, in the year of our Lord, One Thousand Nine hundred Eighty-_____, and in the One Hundred Twenty-____ year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

For use in the State of West Virginia

To: West Virginia Office of Emergency Services
Director of Emergency Services
Telephone: 304-558-5380
Fax: 304-344-4538

Date: _____
Time: _____

Request for an Exemption from Hours-of Service Limitations
Declaration of transportation or Utility Emergency
(DOT 49 CFR Part 390.23)

Nature of Emergency:

Area(s) Affected:

Estimated Number of Customers Affected: _____
Requested Time Period for Waiver: From _____ To _____

Additional Information:

(Company Name)
Submitted by (signature): _____
Name (print): _____
Title: _____
Telephone No. _____ Fax No.: _____

Certified by the West Virginia Office of Emergency Services

Name: _____
Date Beginning: _____ Time: _____
Date Ending: _____ Time: _____